

**VIRGINIA REAL ESTATE BOARD  
INFORMAL FACT-FINDING CONFERENCES**

**MARCH 24, 2004 (1:00 P.M.)**

The Virginia Real Estate Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Florence Daniels, Presided. No other Board members were present

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD.

Disc=Disciplinary Case  
Lic=Licensing Application

C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
PB=Principal Broker

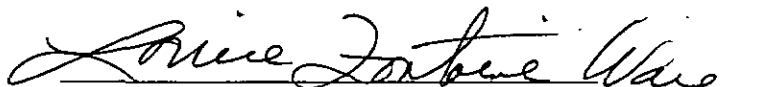
Participants

- |   |                                       |
|---|---------------------------------------|
| 1. John A. Moody<br>File Number 2004-03151 (Lic)                                | John A. Moody – A<br>Valerie Joh - PB |
| 2. Sandra Hurst O'Hara<br>File Number 2004-03317 (Lic)                          | Sandra O'Hara - A                     |
| 3. David Dieu Nuyen<br>File Number 2002-00465 (Disc)<br><b>No Decision Made</b> | David Nuyen – R                       |
| 4. Lindsey Altman<br>File Number 2004-03248 (Lic)                               | Lindsey Altman – A                    |

The meeting adjourned at 4:30 p.m.

Virginia Real Estate Board

  
S. Ronald Owens, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

\_\_\_\_\_  
Custodian of Records

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**RE: JOHN A. MOODY  
APPLICATION**

**FILE NUMBER: 2004-03151**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on March 24, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to John A. Moody on February 10, 2004. The following individuals participated at the conference: John A. Moody, Applicant and Valerie Joh, Broker and Owner of Blue Ridge Properties, by telephone; Douglas W. Schroder, Staff Member; and Florence Daniels, presiding Board Member.

**Summation of Facts**

1. John A. Moody (Moody) applied for a real estate salesperson's license by reciprocity on December 18, 2003, and disclosed a previous disciplinary action on his application.
2. On November 6, 2001, the Tennessee Real Estate Commission (TREC) entered into a Consent Order with John A. Moody wherein Moody admitted to violations of the *Tennessee Code Annotated* §62-13-312(b) and Commission Rule 1260-2-.09(8) and agreed to pay a \$1,000.00 civil penalty.

3. According to the TREC Consent Order, Moody was in violation due to his failure to obtain and/or attempt to obtain a written modification of the contract, to show that the earnest money deposit had been given to the purchaser's attorney rather than to Moody, and due to Moody's failure to provide written notification to the seller that he had not, in fact, received the earnest money deposit.

4. During the IFF, Moody testified that after the transaction "fell through", because the buyer could not settle, per the contract and the seller refused to extend the settlement date. The seller requested that Moody pay her the earnest money deposit of \$5,000.00. Moody contacted the purchaser's attorney and found that the money had already been disbursed to the buyer, whose whereabouts were unknown. The seller filed a complaint against Moody with TREC and received the earnest money deposit through court action.

5. Moody testified that he and his broker split equally the \$5,000.00 payment to the seller. Moody also acknowledged that he will get all changes to contracts in writing.

#### **Conclusion and Recommendation**

Based upon the record and information presented at the conference, I recommend Moody's application be approved.

By: \_\_\_\_\_

Florence Daniels  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

#### **COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

#### **REAL ESTATE BOARD**

**RE: SANDRA HURST O'HARA  
APPLICATION**

**FILE NUMBER: 2004-03317**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on March 24, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Sandra Hurst O'Hara on February 20, 2004. The following individuals participated at the conference: Sandra Hurst O'Hara, Applicant; Douglas W. Schroder, Staff Member; and Florence Daniels, presiding Board Member.

#### **Summation of Facts**

1. Sandra Hurst O'Hara (O'Hara) applied for a real estate salesperson's license by examination on July 21, 2003. At the time of application, O'Hara disclosed a criminal conviction but failed to provide the Board with a copy of the Court and Criminal History Records. O'Hara did not provide the necessary information, to complete her application, until January 28, 2004.
2. On or about February 20, 2004, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum to Adjudication, which states the reasons the license was not issued.
3. Real Estate Board Regulation 18 VAC 135-20-30(6) requires a person to make application to the Board within one year of passing the written examination. O'Hara passed the National portion of the real estate exam on July 12, 2002. O'Hara passed the state portion of the exam again on July 31, 2002. PSI Examination Services sent O'Hara a letter after she passed the exam, informing her that she had one year from the initial passing test date to submit a complete application, with the required fee to the Department of Professional and Occupational Regulation. O'Hara submitted an incomplete application for a salesperson's license on July 21, 2003.
4. O'Hara is seeking a waiver of the requirement to make a complete application to the Board within one year of having passed the examination.

#### **Prior Criminal Convictions**

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

O'Hara was convicted of Assault and Battery and Petit Larceny, both misdemeanors.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. O'Hara's conviction(s) occurred over 26 years ago and she has had no further criminal charges or convictions since that time. Based upon her testimony and credibility at the conference, it does not appear that O'Hara is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it does not appear that granting O'Hara a license will encourage any criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Due to the age of the crimes and O'Hara's actions since that time, I do not see any significant relationship of the crime to his fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

On June 19, 1978, O'Hara was found guilty of Assault and Battery (\$50 fine) and Petit Larceny (\$25.00 fine), in Arlington County, Virginia.

6. The age of the person at the time of the commission of the crime;

O'Hara was approximately 25 years of age at the time of the crime(s).

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about March 27, 1978.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, O'Hara stated she was very ill and received a liver transplant five years ago. She has been working part-time, obtaining building permits for

contractors, for the last few years. Rehabilitative Services has been working with O'Hara to assist her in obtaining for her real estate license.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

O'Hara was not incarcerated.

### **Conclusion and Recommendation**

Based upon the record and information presented at the conference, including the information obtained from the Arlington County Police Department, and in consideration of the criteria outlined in § 54.1-204.B, I recommend O'Hara be granted a waiver of the requirement to make a complete application to the Board within one year of having passed the examination and that O'Hara's application be approved.

By: \_\_\_\_\_

Florence Daniels  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**RE: LINDSEY C. ALTMAN  
APPLICATION**

**FILE NUMBER: 2004-03428**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on March 24, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of

Informal Fact-Finding Conference sent by certified mail to Lindsey C. Altman on February 27, 2004. The following individuals participated at the conference: Lindsey Altman, Applicant; Douglas W. Schroder, Staff Member; and Florence Daniels, presiding Board Member.

### **Summation of Facts**

1. Lindsey C. Altman (Altman) applied for a real estate salesperson's license by examination on February 12, 2004, and disclosed a previous disciplinary action on his application.
2. On October 7, 1992, the Virginia Real Estate Board entered a Final Order finding Altman in violation of its 1989 Regulations 5.3.B.1 (5 counts), 5.3.B.2, 5.3.B.4 (2 counts), 6.6.8, 6.10.6 and 6.12.5 and imposed monetary penalties totaling \$7,000.00. The Board also assessed costs of the hearing in the amount of \$1,639.96 and revoked Altman's real estate broker's license.
3. During the IFF, Altman testified that the 1992 violations occurred as a result of "money problems", due to the recession. Altman stated that he took money from the escrow accounts to cover business expenses. The shortages were discovered as the result of a surprise audit. Altman truly regrets his mistakes.
4. Altman testified that he has been working in the commercial mortgage business since 1992. Altman wants to return to the real estate business because he enjoys selling real estate and working with people.

### **Conclusion and Recommendation**

Based on Altman's appearance and demeanor, I believe that he truly regrets his actions. Altman's family was devastated and embarrassed by this incident. Altman has been very active in community service and feels that he is ready and eager to re-enter the real estate arena. Therefore, based upon the record and information presented at the conference, I recommend Altman's application be approved.

By: \_\_\_\_\_

Florence Daniels  
Presiding IFF Board Member  
Real Estate Board

Date: \_\_\_\_\_

STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

RE LIC  
MAR 29 2004

1. Name: Florence Daniels
2. Title: Board Member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on March 24, 2004
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Florence Daniels  
Signature

March 24, 2004  
Date